



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/567,671

06/02/2006

Herbert Pudelko

G33-115 US

4010

21706 7590 10/01/2008

NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG, NY 10962-2100

EXAMINER

BLOUNT, ERIC

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,671	Applicant(s) PUDELKO ET AL.	
	Examiner ERIC M. BLOUNT	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/9/06 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because they lack the appropriate text labels. The drawing are not presented so that the skilled artisan would be able to understand what each component in the drawings represented in the instant invention. Please provide a text description for each of the boxes presented for examination. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The specification is objected to because it lacks the proper headings. Please include headings for at least The

Art Unit: 2612

Background of the Invention, Summary of the Invention, Brief Description of the Drawings, and Detailed Description of the Invention.

Appropriate correction is required.

Claim Objections

3. Claim 5 is objected to because of the following informalities: On page 5 of 11 line 7, applicants have omitted the word “state”. The word “state” should appear between the words “operating” and “A”. Appropriate correction is required.

4. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In this instance, claim 6 repeats the limitations already presented in the latter part of independent claim 5. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-4, 9, 10, 12, 14-16, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2612

Regarding **claim 2**, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding **claims 3, 4, 9, 12, and 14-16** are objected for their use of the term "and/or". "And/or" language requires several conditions must hold true: there must be a condition where there is A alone, a condition where there is B alone, and a condition where there are both A and B. Since and/or language is not defined or addressed in the specification, it is unclear how applicants wish for the examiner to interpret the language. For the purposes of compact prosecution, each occurrence of "and/or" will be treated as an "or" statement.

As for **claim 9**, applicants use the language "comprises a sensor for actuation an opening (car door, engine compartment hood, tank cap, trunk) of the vehicle" in lines 2-4. This language is unclear. Examiner is unsure what is meant by "actuation an opening". Further, it is unclear whether the components listed in parenthesis are meant as examples or if they are meant to be claim limitations.

Claim 10 recites the limitation "several elements listed in the preceding claims" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 10 depends from independent claim 5 which does not mention a list of elements.

Claim 12 recites the limitation "the authorization query" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "code key or code card" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2612

Claim 19 recites the limitation "code key or code card" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the code key or code card" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, 5-7, 13, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Winner, Jr. et al [US 6,400,042 B1].

With regard to **claim 1**, Winner discloses a method for securing a vehicle against theft, characterized in that at least one essential operational element of the vehicle can be switched between three operating states A, B and C and is switched between these operating states according to the following steps:

- A. the essential operational elements are switched into a substantially unrestricted operation-ready operating state A by an external usage authorization device independent of the vehicle over means for transmitting the authorization data (column 6, line 59 – column 7, line 27; When a coded signal S is received from authorization device T the vehicle is switched into an unrestricted operation-ready operating state.),

Art Unit: 2612

- B. at least one essential operational element is switched into an operation-ready operating state B by an event-dependent circuit through at least one event for a period of time, the period of time depending on predefined operating parameters (column 7, line 65 – column 8, line 33; Winner shows that the vehicle is switched into an operating state B when it determined that the authorization device T is no longer in the vicinity of the vehicle and a timer has expired. A stalled operation state is interpreted as operating state B.),
- C. either at least one essential operational element of the vehicle is switched after the passage of time for putting out of operation the vehicle into a non-operation-ready or restrictively operation-ready operating state C or the essential operational elements are switched before the passage of the time period into operation-ready operating state A according to method step a) by means of the usage authorization device via means for transmitting the authorization data (column 8, lines 35 -57; after a passage of time i.e. 1.0 minutes operating state C is entered where the vehicle is completely shut down. Column 9, lines 12-18 shows that the authorization device is adapted to switch the vehicle ignition system from operating state B to operating state A).

As for **claim 3**, as best understood, Winner discloses that the essential operational element is automatically switched to operating state C after passage of the time period (column 8, lines 30-48).

Art Unit: 2612

As for **claim 5**, Winner discloses a system for securing a vehicle against theft by means for switching at least one essential operational element of the vehicle, the means for switching comprising:

- at least one usage authorization device (T),
- at least one switching device (10) switching between specific operating states of the essential operational element (column 6, line 59 – column 7, line 57; control unit 10 is operable to receive authorization data from device T and switch the vehicle system into different operating modes.), and
- means for transmitting the authorization data between the usage authorization device and the switching device (column 7, lines 2-15; the authorization data is transmitted between the authorization device and switching device wirelessly), characterized in that the essential operational element is switchable between three operating states A, B and C:
 - operating state A permitting the essentially unrestricted operation of the essential operational element,
 - operating state B permitting the operation, restricted by operating parameter P to a time period Z, of the essential operational element and
 - operating state C causing the blockage of the essential operational element, with the switching device being connected over at least one operational connection with at least one means each for detecting a switching event (see columns 6-8; recognition of authorization device T places the vehicle into a fully operational state. After a passage of time without an authorization signal, the vehicle is

Art Unit: 2612

placed into state B. If after a period of time of operating in state B there is no authorization device data received, the vehicle is placed in to operating state C).

Claim 6 is interpreted and rejected using the same reasoning as claim 5 above.

As for **claim 7**, the usage authorization device (T) is formed as an external usage authorization device independent of the vehicle (Transmitter T is located with an authorized driver or owner of the vehicle. Transmitter T is independent of the vehicle.).

As for **claim 13**, as best understood, Winner discloses that the essential element is the control apparatus of the vehicle (control unit 10).

As for **claim 16**, as best understood, Winner discloses that the system comprises means for transmitting the authorization data from the usage authorization device to the switching device from a relatively long distance (column 7, lines 3-10).

As for **claim 17**, the switching device is integrated into an essential operational element (control unit 10; see discussion of claims 1 and 5 above.).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 2612

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 4, 11, 12, and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Winner, Jr. et al as applied to the claims above.

With regard to **claim 4**, as best understood, Winner does not specifically disclose that the vehicle as well as also the usage authorization device, before it is initially operated for the first time, are individualized once through an authorization code or the operating parameters are set at the usage authorization device or the events, which trigger the switching of the operating state of the essential operational element of the vehicle, are selected on the usage authorization device. However, examiner takes official notice that it was known in the art at the time of the invention by the applicant for devices that communicated in a system to be programmed or authenticated before for initial operation of the system. It would have been obvious for the device of Winner to be individualized the use of an authorization code so that proper communication could take place in the system. More specifically, communication would only take place between authorized authorization devices and the vehicle. This step would add security benefits to the system.

As for **claim 11**, as best understood, the claim is interpreted and rejected using similar reasoning as claim 4 above. It was known in the art at the time of the invention by the applicants for transmitting devices to communicate (handshake) with one another to verify communication and authorization status. This limitation was well known and widely used in communication systems and thus would not add novelty to the present invention.

Art Unit: 2612

As for **claim 12**, as best understood, though not specifically shown in the Winner reference, it was well known for vehicles to include at least one key with an associated lock. It would have been obvious to the skilled artisan that the user of the vehicle taught by Winner would be provided with a key for operating the ignition and door locks of said vehicle.

As for **claim 14**, the claim is interpreted and rejected using the same reasoning as claim 11 above. It would have been obvious for the authorization device to include a transmitter and receiver in embodiments with added security and communication features as described in claims 4 and 11 above.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winner, Jr. et al as applied to the claims above, and further in view of Weinblatt [US 5,635,901 A].

With regard to **claim 8**, Winner does not specifically disclose an actuation switch for detecting an event. In an analogous art for a vehicle security system, Weinblatt discloses an actuation switch located in a vehicle (column 2, lines 50-65). Since both inventions are for automobile security with anti-hijacking features, it would have been obvious to the skilled artisan to try the actuation switch in the invention of Winner, as taught by Weinblatt, in order to yield the predictable results of a system capable of functioning even when a driver is forcibly removed from the vehicle with or without the authorization device. The skilled artisan would have good reason to pursue the known options for detecting an event that was within his/her technical grasps at the time of the invention.

Art Unit: 2612

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winner, Jr. et al as applied to claims above, and further in view of Burtch [US 5,519,255 A].

As for **claim 9**, as best understood, Winner is silent on a sensor for detecting an opening of a vehicle and a locking sensor for detecting the locking state of a vehicle. In an analogous art, Burtch discloses sensing devices for detecting the opening and closing of doors or other types of triggering events (column 9, lines 1-12). Since Burtch is leaves the trigger events open ended examiner contends that the skilled artisan would have had good reason to try triggering events based on any of the vehicle components including door lock state sensors. It would have been obvious to the skilled artisan to modify the invention of Winner to include the teachings and suggestions of Burtch in order to yield the predictable results of a system better equipped for determining security events that would require the system to take action.

Conclusion

14. It appears that claims 2, 15, and 18-20 would contain allowable subject if applicants were able to overcome the rejections of the claims under 35 USC 112 2nd paragraph.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC M. BLOUNT whose telephone number is (571)272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Bugg can be reached on (571) 272-2998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount
Examiner
Art Unit 2612

/Eric M. Blount/
Examiner, Art Unit 2612